

### **REMARKS**

Claims 1-28 were filed in the application on October 10, 2003. A preliminary amendment was filed on April 7, 2005, which cancelled claims 10-11, 13, 15, 18 and 22-24. In the Office action mailed February 16, 2007, the Examiner objected to Applicant's numbering of the claims stating that "claim 12 is now 10, 14 is now 11, 16 is now 12, 17 is now 13, 19-21 are now 14-16, and 25-28 are now 17-20...will be referred to according to this consecutive numbering for the remainder of the prosecution." Applicant has amended the claims accordingly and respectfully submits that the Examiner's objection is now overcome. Applicant has added new claims 21-24, which correspond to claims 10, 11, 13 and 15 as originally filed and which were previously cancelled by Applicant's preliminary amendment dated April 7, 2005.

Claims 1-24 are now pending in the application. In the Office action mailed February 16, 2007, the Examiner stated that restriction by Applicant of the claimed invention under 35 U.S.C. 121 and 372 was required. The Examiner set forth that Group I consisted of claims 1-11 and 18-20, drawn to a tile and method of installing tile for seamless paving structures. The Examiner further set forth that Group II consisted of claims 12-17, drawn to a method of manufacture of tiles. On February 7, 2007, a provisional election was made by Applicant's attorney Edward T. Kennedy, with traverse, to prosecute the invention of Group I, claims 1-11 and 18-20. Applicant now affirms the above election and, accordingly, has withdrawn claims 12-17 from further consideration by the Examiner.

The Examiner objected to the disclosure because the word "joins" on page 19, line 4 should be --joints--. The Examiner also objected to claims 19 and 20 because the phrase "claim 26" in claim 19, line 1 and claim 20, line 1 should have been --claim 18--. Applicant has amended the specification and claims 19 and 20, and respectfully submits that the Examiner's objections have been overcome.

The Examiner rejected Claims 1-8, 11, and 18-20 under 35 U.S.C. 103(a) as being unpatentable over British Patent No. 2239665 to Arnfield ("the Arnfield '665 patent") in view of European Patent No. 0724039 to Kakudo ("the Kakudo '039 patent"). The Examiner also rejected Claims 9-10 under 35 U.S.C. 103(a) as being unpatentable over the Arnfield '665 patent in view of the Kakudo '039 patent, as applied to claim 1, and further in view of U.S. Patent No. 5,816,738 to Harnapp ("the Harnapp '738 patent").

Applicant has amended the claims in order to more particularly point out and distinctly claim Applicant's invention. Based on those amendments and the remarks set forth below, Applicant respectfully submits that claims 1-11 and 18-24 are now in condition for allowance.

## **REJECTIONS - 35 U.S.C. 103**

### Claims 1-8, 11, and 18-20

The Examiner rejected claims 1-8, 11, and 18-20 under 35 U.S.C. 103(a) as being unpatentable over the Arnfield '665 patent in view of the Kakudo '039 patent. More particularly, with regard to independent claims 1 and 18, the Examiner stated that the Arnfield '665 patent "...discloses **a tile for seamless paving structures** comprising a plurality of irregularly shaped stone elements (11) extending at least partially above a backing layer or base (13), said tile when in aligned abutting relationship with an adjacent tile, forming together with said adjacent tile a grouted joint (12) between adjacent tiles (page 4, lines 3-12 and Figures 1 and 2)." (emphasis added) The Examiner also stated that the Kakudo '039 patent "...teaches, for **a tile for seamless paving structures**, an irregularly shaped cavity extending between adjacent stone elements **creating an optically seamless joint** (column 6, lines 38-42 and Figure 9)." (emphasis added) Applicant respectfully submits that neither the Arnfield '665 patent nor the Kakudo '039 patent teach or suggest a tile for seamless paving structures that create an optically seamless joint. Rather, both references teach a rectangular mold or rectangular frame for forming a rectangular paving slab or rectangular paving block which have clearly visible seams.

In the case of the Arnfield '665 patent, the paving slab is shown in FIGS. 1 and 2 and is formed as a complete structure with irregularly shaped stone pieces 11 supported on a backing 13 and wherein the interstices between the stone pieces and also between the stone pieces and the inner wall of the mold 20 shown in FIG. 4 are filled with a fine cementitious mix 12 containing a resin additive. When these rectangular paving slabs are laid in abutting relationship, as shown in FIG. 4, the linear joints, or seams, between the adjacent paving slabs are clearly visible. This is in stark contrast to Applicant's invention where in claim 1, "a non-linear optically seamless joint" is created between adjacent paving slabs or tiles, or where in claim 18 "an optically seamless joint" is created between adjacent paving slabs or tiles.

With respect to the Kakudo '039 patent, the paving blocks are formed as a plurality of discrete block units, connected by a connecting member, with open interstices therebetween to be filled with sand after the connective blocks are laid on a surface. While this introduction of grouting material after the paving blocks are laid avoids the actuality of visible seams formed by abutting edges of pre-grouted adjacent rectangular blocks, a clearly visible seam, albeit sand-filled, is apparent when the paving blocks shown in FIG. 1 are laid in edge-to-edge abutting relationship. When laid in a conventional rectangular grid array with aligned side and end edges, the rectilinear edge shapes of the block units 2, particularly when aligned with adjacent blocks, stand out in stark visible contrast to the irregular interstices between block units of the same paving block, even when laid in an overlapping "brick" pattern.

The clearly visible longitudinal and/or transverse seams between adjacent rectangular blocks are exacerbated in the process taught by the Kakudo '039 patent as, in Column 4, between lines 30 and 33, each rectangular block is comprised of an identical pattern of block units 2 wherein "this process method makes it possible to quickly produce standardized, rectangular connective blocks 1 comprised of multiple block units 2 linked by connecting members 3".

Even when a non-rectangular mold form is used to produce irregular perimeter shapes which interlock with adjacent block units 21 as shown in FIG. 9, a regular joint spacing is visible in a large paved area where the regular joint spacing between adjacent connective blocks 21 contrasts between the irregular interstices between block units 22 within the connective block 21. Such seams may be described as "regularly irregular" or "regular linear" seams which, while less visible than normal linear seams are nevertheless quite visible over a large paved area of many square feet.

In contrast, Applicant's invention, as set forth in independent claims 1 and 18, is concerned with a paving tile or panel comprising a plurality of stone elements of differing shape and size which are randomly arranged on a backing layer or base whereby the interstices or cavities between adjacent stone elements within a tile and also between stone elements of adjacent tiles gives rise to a truly random grout cavity between the stone elements of adjacent tiles, whereby no repeating pattern of grouted joints between adjacent tiles is visible, thereby forming a truly non-linear optically seamless joint between adjacent tiles. The variability of the width and shape of the grout layer between adjacent stone elements of abutting tiles as shown in

FIGS. 7 to 11 varies quite dramatically and the use of non-molded irregular stone element shapes ensures that no sense of repetitive patterns are visible between adjacent tiles.

More particularly, Applicant's invention has been particularly pointed out and distinctly claimed in amended independent claim 1, which states in relevant part that: "...a grouted joint between adjacent tiles extends irregularly on each side of a joint between respective backing layers or bases to form **a non-linear optically seamless joint** between adjacent tiles." (emphasis added) Moreover, Applicant's invention has also been particularly pointed out and distinctly claimed in amended independent claim 18, which states in relevant part that: "...introducing a grouting composition into cavities between adjacent stone elements whereby said grouting composition in the region of a joint between adjacent tiles extends irregularly over each side of said joint to form **a substantially optically seamless joint.**" (emphasis added)

Applicant respectfully submits that neither the Arnfield '665 patent nor the Kakudo '039 patent teach or suggest, alone or in combination, "a non-linear optically seamless joint" or "a substantially optically seamless joint", as set forth in amended independent claims 1 and 18, respectively, of the subject application. Because the Arnfield '665 patent nor the Kakudo '039 patent teach or suggest, alone or in combination, all of the elements of amended claims 1 and 18 of the application, claims 1 and 18 are in condition for allowance. Because claims 2-8 and 11 depend directly or indirectly from allowable amended independent claim 1, and claims 19-20 depend directly from allowable amended independent claim 18, they too are in condition for allowance.

#### Claims 9-10

The Examiner rejected Claims 9-10 under 35 U.S.C. 103(a) as being unpatentable over the Arnfield '665 patent in view of the Kakudo '039 patent, as applied to claim 1, and further in view of the Harnapp '738 patent. However, because claims 9-10 depend directly or indirectly from allowable claim 1, they too are in condition for allowance.

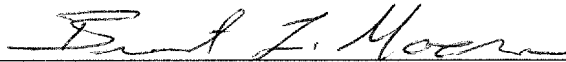
#### New claims 21-24

Because claims 21-24 depend directly or indirectly from allowable independent claim 1, they too are in condition for allowance.

In view of the above, it is submitted that the claims now are in condition for allowance, and reconsideration of the objections and rejections is respectfully requested and allowance of claims 1-11 and 18-24 at an early date is hereby respectfully solicited.

Respectfully submitted,

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